THE HONOURABLE SRI JUSTICE B.PRAKASH RAO

AND

THE HONOURABLE SRI JUSTICE D.APPARAO

W.A. No.980 of 2001

DATED: 14.02.2006

Between:

The Secretary, Andhra Pradesh Residential

Educational Institution Society

M.J.Road, Hyderabad and another

… APPELLANTS/RESPONDENTS

And:

Smt.A.Sasikala

…RESPONDENT/PETITIONER

JUDGMENT: (Per Hon'ble Sri Justice B.Prakash Rao)

Heard Sri C.Vijayabhaskar Moola, counsel appearing for the appellants and Sri D.V.Sitharam Murthy, counsel appearing for the respondent.

The appellants, which is a Management in respect of the Educational Institutions constituted by the Government of Andhra Pradesh, seeks to assail the orders dated

27.09.2000 passed by the learned Single Judge of this Court in W.P.No.8303 of 1991, allowing the writ petition filed at the instance of the respondent who is an employee, working as a Craft Teacher with the 2nd appellant school by setting aside the impugned proceedings dated 14.06.1991 terminating her services.

The few facts that necessary for disposal of this Writ Appeal are that the respondent herein who is the writ petitioner was initially appointed as a Craft Instructor on 26.11.1986 and she has been continued to work. Having regard to the long tenure, which was already put in, she was entitled for regularization. The case of the appellants was that the appointment of the respondent is only on ah-hoc basis but not on regular basis. However, during the period from 20.06.1987 to 23.11.1988 the services of the respondent were discontinued and later on she was again appointed and continued to work till the date of impugned proceedings, and hence the respondent would not be entitled for regularization her services. There is no sanction post of Tailoring and Embroidery Instructor and the appellants are decided to post Music Instructor in Girls Schools and Art Master in Boys Schools against the sanctioned post of Craft Instructor, and as such, no relief can be granted to the respondent herein.

The learned single Judge, after considering the rival submissions made on either side, opined that the writ petitioner was fully qualified to hold the post and further opined that there was a sanction post of Craft Teacher, and further held that issuing termination proceedings and trying to fill up the sanctioned post by appointing another person as Music Teacher by the appellants herein does not proper, and accordingly, allowed the writ petition. The learned Sing Judge also gave a direction to pay all service benefits to the writ petitioner from the date of her first appointment. Hence this writ appeal.

Having regarding to rival contentions on either side and also on a perusal of the entire material available on record, the only point that arises for consideration in this writ appeal is that whether the impugned action on the part of the appellants herein in terminating the services of the respondent herein is valid and whether the respondent herein would entitle to all service benefits from the date of her first appointment?

There is no dispute to the fact that the respondent herein was earlier appointed on 26.11.1986 as a Craft Instruction and her services were discontinued for a short

period i.e. from 20.06.1987 to 23.11.1988, and later on, she was again appointed on ad-hoc basis. Admittedly, there was no challenge made by the respondent herein in regard to her discontinued service period and she was happily continued thereafter till the date of impugned termination proceedings dated 14.06.1991. There is also no dispute on the part of the appellants to the fact that there was a sanction post of Craft Instructor. The respondent is fully qualified to hold such post. There is absolutely no explanation forthcoming on behalf of the appellants in regard to filling up the said sanctioned post with a Music Teacher without giving opportunity to the respondent, who has been continuing in the said post, having requisite qualifications.

Having regard to the fact that the petitioner is fully qualified to hold the sanction post of Craft Instructor and taking into consideration her long service, we are of the opinion that the learned Single Judge has rightly allowed the writ petition by setting aside the impugned action of the appellants in issuing termination proceedings dated 14.06.1991. In view of the above, we do not find any illegalities or infirmities in the order passed by the learned single judge in so far as regularization of the writ petitioner is concerned.

In so far as service benefits are concerned, admittedly, the respondent herein has not challenged in respect to her discontinued service period i.e. from 20.06.1987 to 23.11.1988, and therefore, she would not be entitled for the service benefits of the said period as granted by the learned single judge. She is entitled for service benefits only from 24.11.1988.

For the foregoing reasons, the Writ Appeal is allowed to the extent indicated above. No order as to costs.

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B.PRAKASH RAO,J

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D.APPARAO,J

Dated: 14.02.2006

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